

April 26, 2010

Hon. Raymond Dearie, Chief Judge
Eastern District Federal Court
225 Cadman Plaza East
Brooklyn, NY 11201

09-cr-663 (RTD)
10-cr-19 (RTD)

Dear Judge Dearie:

As reporter for the New York Post, covering the Eastern District Court of New York I respectfully request that you unseal the plea agreements in U.S. v. Zazi 09-cr-633 and U.S. v. Ahmedzay 10-cr-18.

In addition to the presumption of openness in all federal judiciary documents, plea agreements specifically have been found to be public documents by the Second Circuit (U.S. v. Haller, 837, F.2d 84, 86 2nd Cir. 1988).

The panel wrote:

"We conclude there is a right of access to plea hearings and to plea agreements. *See In re Washington Post*, 807 F.2d 383, 389 (4th Cir.1986). Plea hearings have typically been open to the public, and such access, as in the case of criminal trials, *see Globe Newspaper*, 457 U.S. at 605-06, 102 S.Ct. at 2619-20 (citing *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 569, 100 S.Ct. 2814, 2823, 65 L.Ed.2d 973 (1980) (plurality 87 opinion)), serves to allow public scrutiny of the conduct of courts and prosecutors. Moreover, the taking of a plea is the most common form of adjudication of criminal litigation. *See Brady v. United States*, 397 U.S. 742, 752, 90 S.Ct. 1463, 1471, 25 L.Ed.2d 747 (1970) (well over three-fourths of criminal convictions rest on guilty pleas). Accordingly, the qualified first amendment right of access extends to plea hearings and thus to documents filed in connection with those hearings"

The D.C. circuit, in *Washington Post v. Robinson*, 935 F.2d 282, 288 (D.C. Cir. 1991) citing Haller, agreed that plea agreements are public records. "In

accord with the rulings of our sister Second, Fourth, and Ninth Circuits, we now find that plea agreements have traditionally been open to the public, and public access to them 'enhances both the basic fairness of the criminal [proceeding] and the appearance of fairness so essential to public confidence in the system.' Therefore, there is a first amendment right of access to them."

Some of the information in the agreements has already come to light in the detailed allocutions made by both defendants and statements made by prosecutors in open court during the pleadings.

If you determine that portions of the agreements should not be released, I ask that the document be redacted so only those words or names that that you deem exempt are withheld from the public.

Thank you in advance for your kind attention to this matter.

Sincerely,



Janon Fisher

Reporter

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